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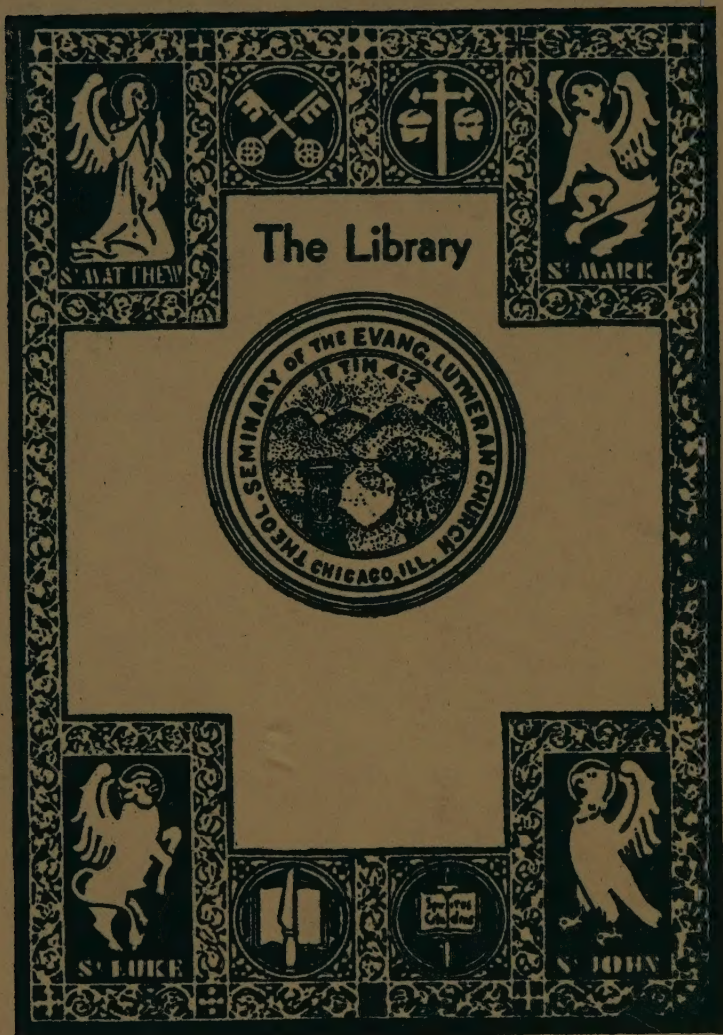
# AM HA-ARETZ

THE ANCIENT HEBREW PARLIAMENT

MAYER SULZBERGER



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THE AM HA-ARETZ  
THE ANCIENT HEBREW PARLIAMENT

A CHAPTER IN THE CONSTITUTIONAL  
HISTORY OF ANCIENT ISRAEL

BY  
MAYER SULZBERGER

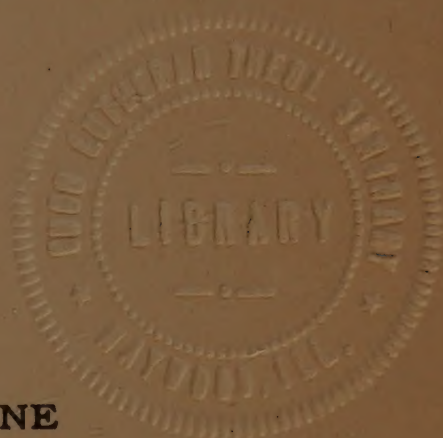
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"And Abraham bowed down himself before the Am Ha-Aretz"—  
Gen. 23<sub>12</sub>.

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PHILADELPHIA  
JULIUS H. GREENSTONE  
1909







TO THE MEMORY OF  
HENRY CLAY TRUMBULL  
ARCHAEOLOGIST, RELIGIOUS TEACHER  
CITIZEN, SOLDIER, FRIEND







## P R E F A C E

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The following paper was read before the Professors and students of the Jewish Theological Seminary of America and their invited guests, on April 29, 1909, as one of a series of popular lectures.

Being printed in its original form, indulgence is asked for the redundancies and the deficiencies incident to that mode of presentation.

M. S.

*Philadelphia, May, 1909.*





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# THE AM HA-ARETZ

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## I POLITICAL POWER

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### A THE EDAH NESIIM AND ZEKENIM

The great, the predominating influence of Israel on the religion of the civilized world is universally acknowledged. As regards the civil government of the old Hebrew commonwealth, the case is different. On that point opinions fluctuate; one school looks upon it as an awesome and mysterious institution, under immediate Divine direction, and without important interference by human agents; while the other school views it with lofty superiority as the crude and unsuccessful attempt of a people relatively insignificant in numbers and power, to form a government which should somehow strive to match itself with the great empires of the ancient world.

In entering upon the consideration of such a question as the government of ancient Israel, a few leading principles must be borne in mind. The spirit of a people manifests itself in its

beliefs and its institutions; the former give shape to its religion, the latter to its politics. So that in the past as in the present, every nation may be said to be characterized by its church and by its state.

To say, as many do, that the Hebrew people had an especial genius for religion, but a special lack of faculty for politics, is to confound individual psychology with national psychology. A particular man may have a peculiarly contemplative, ethical, or mystical temperament, and thereby show that he has more genius for the study and practice of religion than for any other sphere in life; but that a nation should exist in which all active temperaments have the same bias, is purely inconceivable, since both religion and politics are expressions of the human spirit. Any nation that is characterized by profundity or loftiness of thought and permanence of achievement in the one direction, must necessarily have powerfully expressed itself also in the other direction. Since religion is the way with which men live with God, and politics is the way with which men live with men, the two tendencies are closely intertwined and inseparable.

The history of Israel on the religious side has been many times treated by great scholars and thinkers, Jewish, Christian and infidel. The achievements in that field have been enormous. In singular contrast is the narrowness of our information on the governmental history of



Israel, and the mass of learned labor and acumen devoted to the study of the Bible during the last century does not seem to have added much to our knowledge on this subject.

It may be useful therefore to leave the textbooks and to look at the Bible itself.

The general impression left on the mind by reading the Pentateuch and the Book of Joshua is that Israel was governed by a chief (Nasi, Shophet, Melech), who was at the head of the military and civil authorities, and that alongside of him was a High Priest who controlled the ecclesiastical establishment; that the Chief had a Council, probably bi-cameral, to determine national policies, that the smaller chamber was composed of twelve princes (Nesiim) and the larger of seventy elders (Zekenim), and that the two, in General Assembly, constituted the Edah (congregation or parliament) of the nation.

The modern school of Biblical critics look upon this picture as fanciful and as describing institutions dreamed of but not actually established. Our purpose is to take up only one part of the subject, namely that, which refers to the existence in ancient Israel of a national Council, possessing large powers and acting as a constitutional restraint upon the caprice, wickedness or arrogance of kings.

The picture presented by the narrative of the Pentateuch is itself a fact of importance. The imagination of man is rarely strong enough to create images out of nothing. We ask ourselves

where was the model from which this picture was painted? How did the idea of a constitutional parliamentary restraint upon the monarch reach the writer's consciousness?

To these questions there appears to be no sufficient answer.

The passages in which the Zekenim are mentioned present many minute evidences of the fact that in the writer's consciousness the Council was an institution whose mode of working was universally known.

When God speaks to Moses who is tending the flocks of his father-in-law, and invites him to the leadership of his nation, the existence of a national Council is coupled with the tender: "Go and gather the elders of Israel together; thou shalt come, thou and the elders to the King of Egypt" (Exod. 3<sub>16,18</sub>).

To the mind of Moses such leadership is impossible to a man unskilled in forensic eloquence with which to win the Council to his way of thinking (Exod. 4<sub>10</sub>). And this necessity is tacitly admitted when God names Aaron as the spokesman who can sway the Council and the people (Exod. 4<sub>16</sub>), and who in the event actually does so: "The people believed" (Exod. 4<sub>29-31</sub>).

Moses convokes the Zekenim when the great Paschal service is to be adopted (Exod. 12<sub>21</sub>); when he submits for acceptance or rejection the offer to Israel to become the Lord's people (Exod. 19<sub>7,8</sub>); and when the tribes are numbered (Numbers 1<sub>18</sub>).



Moreover the Zekenim of all the tribes being too numerous for practical work, a special representative Council of seventy selected from among the whole number is instituted and their pronouncements are declared to be of the same quality as those of Moses himself (Numbers 11<sub>16.17</sub>). A special meeting place is assigned to them (Numbers 11<sub>24</sub>) and the mode of their convocation is arranged (Numbers 10<sub>2-8</sub>). No influence can procure membership for any but representatives of the several tribes in due proportion, Levi excepted, an exclusion which rouses the wrath of Aaron and Miriam against Moses (Numbers 12<sub>2-15</sub>).

The Edah or General Assembly is composed of two chambers, the smaller one being the twelve princes (Nesiim) and the more numerous the seventy elders (Zekenim). The priests are custodians of two silver trumpets. If one is blown, the Nesiim (princes) alone assemble; if the two are blown, both houses come together (Numbers 10<sub>4.3</sub>).

When the Assembly adopts a proposition there is a formula: Na'aseh, we will do (Exod. 19<sub>8</sub> 24<sub>3</sub>); Na'aseh ve-nishma', we will do and be obedient (Exod. 24<sub>7</sub>); Na'avod-Nishma', we will serve, we will obey (Josh. 24<sub>22.24</sub>).

The powers of government are conceived to be divisible into political and judicial functions.

Moses is assumed to have at first exercised all these powers himself. It is his father-in-law Jethro who advises the subdivision of the judicial

function into major and minor. "The great things" of judgment he reserves to himself; the smaller matters he assigns to an organized force of judges (Exod. 18<sub>18-22</sub>). Alongside of these and to fulfil their decrees and execute other public functions stand the Shoterim (officers) (Numbers 11<sub>16</sub>; Deut. 16<sub>18</sub> 29<sub>9</sub> 31<sub>28</sub>; Josh. 1<sub>10</sub> 8<sub>33</sub> 24<sub>1</sub>).

The high judicial function thus assigned to Moses is not to be administered by himself alone. The national Assembly, under his presidency, acts as the High Court: "They shall bear the burden with thee, that thou bear it not thyself alone" (Numbers 11<sub>17</sub>). Nevertheless his presidency of this illustrious body is no sinecure. He is to be the shepherd to keep them in order (Numbers 27<sub>16.17</sub>).

That cases of great importance were presented for their judgment was inevitable. The claim of Zelophehad's daughters involved inter-tribal relations, land laws, and inheritance laws, three constitutional questions of the first order. The resolutions were: (1) That where there were no sons, daughters would inherit (Numbers 27<sub>7</sub>). (2) In default of both sons and daughters, brothers shall inherit (27<sub>9</sub>). (3) In default of sons, daughters and brothers, the father's brothers shall inherit (27<sub>10</sub>). (4) In default of all these then the kinsman that is next to him of his mishpachah (family) shall inherit (27<sub>11</sub>). (5) When daughters inherit they may not marry outside their tribe lest the equilibrium of tribal landownership be disturbed (Numbers 36<sub>6.7</sub>).



Questions like these can be properly treated only by tribunals of the most eminent rank, and the presence of such a body in a country is evidence that the king is a constitutional monarch, of limited and defined powers, and that the Parliamentary Court alongside of him is to be reckoned with as one of the great estates of the realm.

The law of Exod. 22<sub>28</sub> recognizes this position: "Thou shalt not revile the Elohim, nor curse the Nasi." Either is leze majesty.

This conclusion is moreover supported by direct evidence. Deut. 17<sub>14-20</sub> is a little law-code defining the selection, the qualifications and the duties of the king. The selection is to be by the Lord and the enthronement by the nation. The qualifications are that he must be an Israelite, not a foreigner. The duties are both affirmative and negative. He shall write for himself a copy of the law, shall read in it every day, and shall observe it in its entirety. He is not to multiply horses nor to send people to Egypt for procuring horses, nor multiply wives, nor greatly multiply silver and gold, nor shall his heart be lifted up above his brethren.

These provisions are clearly what we call "constitutional." Not only must the king's selection be ratified by the nation, but express limitations are placed on his power.

An indirect testimony to the existence of such a constitutional provision is the travesty of king's law contained in 1 Sam. 8<sub>11-18</sub>. It is a bitter arraignment of king's practices as being viola-

tive of the constitution, and reminds us of similar diatribes in modern free states.

The *political* functions of the Edah were of equal gravity with its judicial powers. When the spies made their report concerning the prospects of conquering Canaan, it was to the Edah that it was addressed, and that body was so terrified that it fell into a panic and shouted for the death of Joshua and Caleb who favored an immediate invasion of the coveted country. And Moses, whose esteem for Joshua and Caleb was of the highest, was unable to procure the adoption of their views. The Edah prevailed and its policy of unwisdom and cowardice postponed the conquest for a generation.

Two instances or three of great diplomatic questions also arose. The first was the request to the king of Edom for passage through his country. The account (Numbers 20<sub>14-21</sub>) does not enable us to say that the Edah was consulted. Moses alone is mentioned, unless indeed the term Bené Israel in the 19th verse, means the Assembly.

At all events the negotiations indicate a highly developed international law and a sophisticated and courteous diplomatic language.

When Israel prefers the same request to Sihon, the Amorite king, the demand for passage is not by Moses but by Israel (Numbers 21<sub>21-25</sub>).

When the Gibeonites made a league with the conquerors, Joshua and the Assembly (here called Ish-Yisrael) acted together. Joshua pro-



nounced the assent of Israel, and the princes (Nesiim) of the Edah made oath thereto (Josh. 9<sub>8-16</sub>). It turned out that the wily Gibeonites had deceived Joshua and the princes. Nevertheless the Edah, though it murmured (9<sub>18</sub>), abided by their act.

Perhaps the most important political act recorded of the Assembly was its resolution to declare war against the two and a half East-Jordanic tribes that had just helped them conquer the Westland (Josh. 22<sub>10-34</sub>).

The returning braves, it seems, built an altar on the border of their country, and the rumor reached the Edah that they had determined to set up a worship of their own and to abandon the national God. The Assembly met at Shiloh and prepared for war. Phineas was placed at the head of the Nesiim (there were but ten left) as a delegation bearing an ultimatum. The imputed rebellion was denied, the altar explained away, and peace was preserved.

## B

### THE AM HA-ARETZ

It is not however my purpose to dilate upon the Edah of the Pentateuch, which is well-known to all Bible students. Our present interest lies in the fact that many scholars believe that with the death of Joshua, the Edah came to an end, that the parliament as an institution perished and that no further traces of it can be found until

we come to the Gerusia, about 200 B.C., an institution which was succeeded by the Great Synagogue and that again by the Sanhedrin. There is much conflict of opinion on the composition and function of these bodies, but the agreement seems general, that from the time of the Judges to the reign of Antiochus the Great, a period of about 1200 years, there is no real evidence of the existence of such a great Council in Israel.

From this view I emphatically dissent, because the phenomena of Israel's history and development cannot be explained by it. The tendency of the historians of the Jewish nation has been to view the Priests and Prophets as the efficient agencies of Hebrew government, the former having charge of the ceremonial institutions, and the latter being the great preachers of righteousness. Incidentally kings and a few generals are introduced, the kings being either good or bad. When good, they listen to the Priests and the Prophets; when bad, they do not. The inadequacy of such a view is plain from the impossibility of realizing how a people, developing no other institutions than these, can, after three thousand years and more, still continue to exist as an integral body. The kings, the Priests and the Prophets have all departed, but the people survive; and this survival during the last two thousand years must, according to all rational laws of history, be due to the same causes and impulses which inspired the nation during the thousand years before. If, then, the



Jewish nation was created and developed, not by Priests and not by Prophets, where did the source of development lie? The answer is unmistakable: it was in the Hebrew nation itself. To say that a sojourn of seventy years in Babylonia totally changed the character of the nation, and created that deathless national life which has surpassed in vigor all the empires and kingdoms of that day, is to give an explanation which does not explain, and which it is not too harsh to characterize as superficial. If merely rubbing shoulders for an instant of time with Babylonian civilization, transfused so much of the spirit of the latter into the Jewish nation that it implanted within its soul the seeds of immortality, one wonders why the Babylonians and the Assyrians, who must have kept the bulk of that spirit of which a spark only descended upon Israel, fell within a short time thereafter into utter nothingness. It is for this reason, too, that as regards historical estimates, the learned and meritorious works which describe Israel's indebtedness to Babylonian and Egyptian sources, cannot have controlling value. Tools themselves are inanimate things; behind their achievements lies the spirit of the worker.

If, therefore, it was the spirit of Israel which created Judaism, historical science demands that the operation of that spirit prior to the creation of Judaism be investigated and, if possible, ascertained; and if the spirit which created the religion of Judaism is thus of surpassing

interest, it is no more so than the spirit which created its governmental institutions. The historians point to Ezekiel, to Ezra and to Nehemiah, all children of their people, in whose every nerve and fiber its spirit was embedded.

The fact that the writing Prophets were long preceded by a prophetic order or guild, which had a distinct organization and specific functions, is too frequently overlooked; and the still more significant fact that the only people whom we call Prophets, namely, the great writing Prophets, either were never members of that guild, or had severed their connection with it, and were denouncing it as pernicious, by applying to its members the opprobrious name of "False Prophets." Like all orders or guilds, the official Prophets constituted a grade of aristocracy, and revolt against this caste was the revolt of the democracy. The great Tribunes of the people were therefore the writing Prophets, who denounced all the aristocratic powers of the state as being exercised without due regard to the rights of the mass of men as men. If, then, in Amos and Hosea, in Isaiah and Jeremiah we recognize the orators of the people against the privileged classes and in favor of right and justice to all men, it behooves us to re-examine our opinions on many subjects, and to determine whether we have not often viewed as an indictment of all Israel, charges specifically brought by the great Prophets of Israel, on behalf of the whole people of Israel, against the aristocratic classes.

The task is colossal, but men should be found who will address themselves to it in the proper spirit. As for myself, I propose to confine this lecture to a mere corner of the work.

In point of time I shall in the main not go further back than the middle of the ninth century B.C., to the days of Ahab; and I shall not come down later than the time of Jeremiah, say two hundred and fifty years thereafter. I shall endeavor to demonstrate that within this period there is sufficient evidence to warrant the opinion that alongside of King and Priest and Prophet, there was a great directive, if not controlling, influence in the state, closely analogous to what we call Parliament; that this body had executive, or political, and high judicial powers, just as has the Parliament of England. The limitation of my investigation must, however, not be misconstrued. On general principles and from the specific evidence obtainable from the Biblical books, it can be shown that such an institution existed in embryo before the unification of the state under David; that it became fully developed in the early days of the kingdom; that it never ceased to exist until the downfall of the monarchy, and that in one form or another it was preserved as an active force in Babylon during the captivity and in Palestine after the return. To attempt to work out this subject completely would require not a lecture, but a book, and I shall therefore confine myself this evening to the narrow field which I have deliberately



chosen. The institution described in the Pentateuch as the Edah, and which I have characterized as a great national Council, is known in the period that I am now investigating as the Am ha-aretz.

The term Am ha-aretz has had a chequered career. In its origin it probably meant the people of a foreign land. Joshua and Caleb use it in this sense in Numbers 14, in making the minority report of the Commission to investigate the availability of Palestine for an Israelitish state. In the course of the thousands of years since, it has come to mean merely an ignorant person, a boor, and Zangwill has introduced this phase of its meaning into English literature in the quaint form of "man of the earth."

Between these two extremes, so far apart, the term has had other meanings, not a few. The student who has a hankering to look up the subject may turn to Rothstein's *Juden and Samaritaner* (Leipzig, 1908) and Büchler's *Der Galiläische Am ha-aretz* (Vienna, 1906). In these learned works much will be found concerning the meaning of the term after the Return from Babylon and down to the early centuries of the common era.

The term occurs forty-nine times in Scripture. In forty-two of these instances it means neither the nation, nor a heretical section of it, nor an individual boor, but is simply a technical term of Hebrew Politics and signifies what we would call "the Parliament."

The passages are the following:

Genesis 23<sub>7.12.13.</sub>

Leviticus 4<sub>27</sub> 20<sub>2.4.</sub>

2 Kings 11<sub>14.18.19.20</sub> 15<sub>5</sub> 16<sub>15</sub> 21<sub>24.24</sub> 23<sub>30.35</sub> 24<sub>14</sub>  
25<sub>3.19.19.</sub>

Jeremiah 1<sub>18</sub> 34<sub>19</sub> 37<sub>2</sub> 44<sub>21</sub> 52<sub>6.25.25.</sub>

Ezekiel 7<sub>27</sub> 12<sub>19</sub> 22<sub>29</sub> 39<sub>13</sub> 45<sub>16.22</sub> 46<sub>3.9.</sub>

Job 12<sub>24.</sub>

2 Chronicles 23<sub>13.20.21</sub> 26<sub>21</sub> 33<sub>25.25.</sub>

That all the particular duties devolving on this ancient Parliament can at this distance of time be clearly ascertained is too much to hope for. That these duties were partly political and partly judicial is, however, clear. In speaking of such an institution we must be careful not to confound modern notions with ancient ideas. If we are apt to believe that representation can be secured in but one way, namely, by the ballots of a portion of the population, it by no means follows that the ancient Hebrews took the same view. They had kings, princes, priests and nobles, and it is not inconceivable that individuals selected from among the most important were looked upon as the men proper to sit in the Am ha-aretz.

The texts to which I have referred may, as regards their content, be divided into groups as follows: (1) Those which represent the Am ha-aretz as exercising political functions, especially the making and unmaking of kings, and (2) those which represent it as the High Court of the nation.

## C

## THE AM HA-ARETZ OF THE HITTITES

Before entering into the dry details concerning the Hebrew Am ha-aretz it may be worth our while to look in on a session of the Am ha-aretz of another nation,—one that held sway in Palestine long before our ancestors took possession. The great Hittite empire of the North seems to have had an offshoot in the South, where a Southern Hittite League probably had its capital in the city of Hebron, in which Abraham long sojourned. From this point he had led the campaign against Kedor-Laomer the Elamite king, over whom he and his confederate chiefs of the Hebron district triumphed. Though his relations with the Hittites are of the closest yet is he an alien. He may levy war with the assent and co-operation of the League, but he may not own land absolutely. He is looked on as a mighty prince, as a powerful ally of the Hittite government, but not as a member of it.

When Sarah died at Hebron it was necessary to find a fitting burial-place, one that should forever remain a possession of the family. Under the general law such ownership (*ahuzah, mikneh*) was impossible, without the assent of the national Parliament, the Hittite Am ha-aretz. Its President, “ he who sits in the middle ” (Gen. 23<sub>10</sub>) was Ephron the son of Zohar. Its members still bore the ancient name of members of a city Am out of which the national Am had been devel-



oped: "Comers to the city gate" (Gen. 23<sub>10.18</sub>), a name which survived the institution to which it originally belonged.

To this body Abraham addresses himself.

The Assembly is in session. Abraham is admitted. With polite deprecation he describes his alienage and asks that out of their grace he may be permitted to acquire a burying-place absolutely. "They," that is, the President, replies in courtly phrase, gently disavowing the term applied by Abraham to himself, avouches him a mighty Prince, and begs him to make free choice of any of their sepulchres.

Abraham, who had in the meanwhile been seated, bowed to the Am ha-aretz and indirectly addressed Ephron by saying to the Assembly: "Intreat for me to Ephron the son of Zohar, that he may for full value grant me the cave of Machpelah."

And then courteous diplomatic fencing. Ephron says: "Nay, my lord, freely in this presence do I give thee the field with the cave. Bury thy dead!" Abraham bows to the Am ha-aretz and speaks: "But hear me, as a gift I cannot take it. Accept its value that I may bury my dead therein." And then with polite flourishes Ephron fixes the value in money current with the merchant, or as we should say, legal tender. To admit an alien to this kind of ownership, it is deemed necessary that grantor and grantee appear before the Am ha-aretz, that the price be fixed, the land minutely described, and

the consideration paid, all publicly in the hearing and view of the Am ha-aretz.

During the Jewish monarchy, an ordinary sale of land would, of course, have been effected before the city Am, "the Yoshebim in the court of the prison" (Jer. 32<sub>7-15</sub>). The case of Abraham, however, was something more than a mere local sale of land. It was a diplomatic negotiation between high contracting parties and the tone in which the affair was conducted may serve to give us an idea of the courtly etiquette which attended the reception of foreign ambassadors at Jerusalem by the Am ha-aretz in session.

## D

### THE DOWNFALL OF ATHALIAH

Our digression may have prepared us the better for appreciating the high political function of the Jewish Am ha-aretz as king-maker and king-breaker.

The classical example occurs at the beginning of the ninth century B.C. The record is in 2 Kings 11 and its doublet in 2 Chronicles 23.

Athaliah, princess of Israel, the daughter of Ahab and Jezebel, married Jehoram, king of Judah. He was succeeded by his youngest son Ahaziah who, dying soon after, Athaliah the queen-mother ascended the throne, having first caused the assassination of the surviving members of the Davidic house in Jerusalem. Only the baby-prince Joash was saved. Until the age

of seven he was concealed by his uncle the high-priest Jehoiada, and then in 881 the latter organized a revolt in which Athaliah lost her life, the young prince Joash was enthroned, and Jehoiada became regent.

The picture presented by this narrative is quite clear. Athaliah the queen-mother has established Baal-worship. A revolt is led by the priest Jehoiada, who confides in and is supported by the military chiefs of Temple Hill and by the Am ha-aretz. Their object is to overthrow Athaliah and the Baal-worship, to enthrone Joash the rightful heir, and to establish the worship of the God of Israel.

A movement of this character against a powerful personality like Athaliah calls for a leader of more than ordinary qualities. Such a one was Jehoiada, the Priest, called also the High Priest (2 Kings 12<sub>11</sub>). He had married the princess Jehosheba, the aunt of the little prince Joash, and had hidden the latter during the six years of Athaliah's usurpation. At his death he was buried in the Tombs of the Kings (2 Chron. 24<sub>15.16</sub>), and nearly three hundred years later he was spoken of as the primate and type of the Jerusalem priesthood (Jer. 29<sub>26</sub>).

As might have been expected from such a man, the revolution was well-planned and vigorously executed. The Am ha-aretz and the garrison were ready; the latter under the leadership of their captains, the former probably under the leadership of Jehoiada himself. While his rela-



tion to the Am ha-aretz is not directly indicated, there is a significant remark in 2 Chron. 24<sub>20</sub> which bears on the subject. There we are told that Zechariah the son of Jehoiada stood above the Am (*vaya'amod me'al la'am*). If this means, as it probably does, that the high-priest or the Cohen ha-rosh in those days presided over the Am, was indeed the Cohen of the Am, the position becomes clear. The Am by its President Jehoiada, and the garrison represented by the military commanders, agreed to dethrone the usurper and to enthrone the lawful king.

The method of procedure was agreed on. A strong force was to surround the little king and to defend the Temple enclosure, and death was denounced as the penalty for any intrusion during the progress of the revolution. The preparations completed, the king was crowned and anointed amid shouts of "God save the king!" Athaliah heard the noise "of the guard and of the Am," came to the Temple, saw what was going on, saw the Am ha-aretz rejoicing, rent her clothes and shouted "Treason, treason!" Rushing to reach the Palace, she was slain as soon as she had passed out of the Temple enclosure. Then Jehoiada made a *berith* between the Lord, the king and the Am ha-aretz; the forces entered the house of Ba'al, broke it down and slew the Baal-priest Mattan, after which Jehoiada with the military and the Am ha-aretz brought the king down from the Temple to the throne-room of the Palace and enthroned him. The Am ha-

aretz rejoiced, and "the city was in quiet" (verse 20).

Dealing as we are with Jerusalem, the metropolis, we cannot avoid the difficulty which instantly presents itself. If Am ha-aretz really meant "the people of the land" as the authorized version has it, how it is that this great city was overrun by a mob of country-folk, who had not only entered the town by its gates, but were practically entrenched within the walls of its lofty citadel? If, on the other hand, Am ha-aretz, at that early date, nine centuries before the Common Era, meant the city rabble, what is the meaning of the 20th verse which tells us that the city remained quiet?

Either supposition is too improbable to be reasonably entertained. When the Bible speaks of city dwellers it has a distinct name for them, *anshé ha'ir* (men of the city). This expression is neither isolated nor casual. It occurs in Genesis, Joshua, Judges, Samuel, and Kings. It is besides unthinkable, that with a ruler of the ability of Athaliah, a mob whether of country or city folk could have been gathered on Temple Hill without her knowledge.

If, however, the Am ha-aretz means the Great Council, this difficulty disappears. The presence of the members of this body on Temple Hill was required for the performance of its functions and therefore caused no alarm.

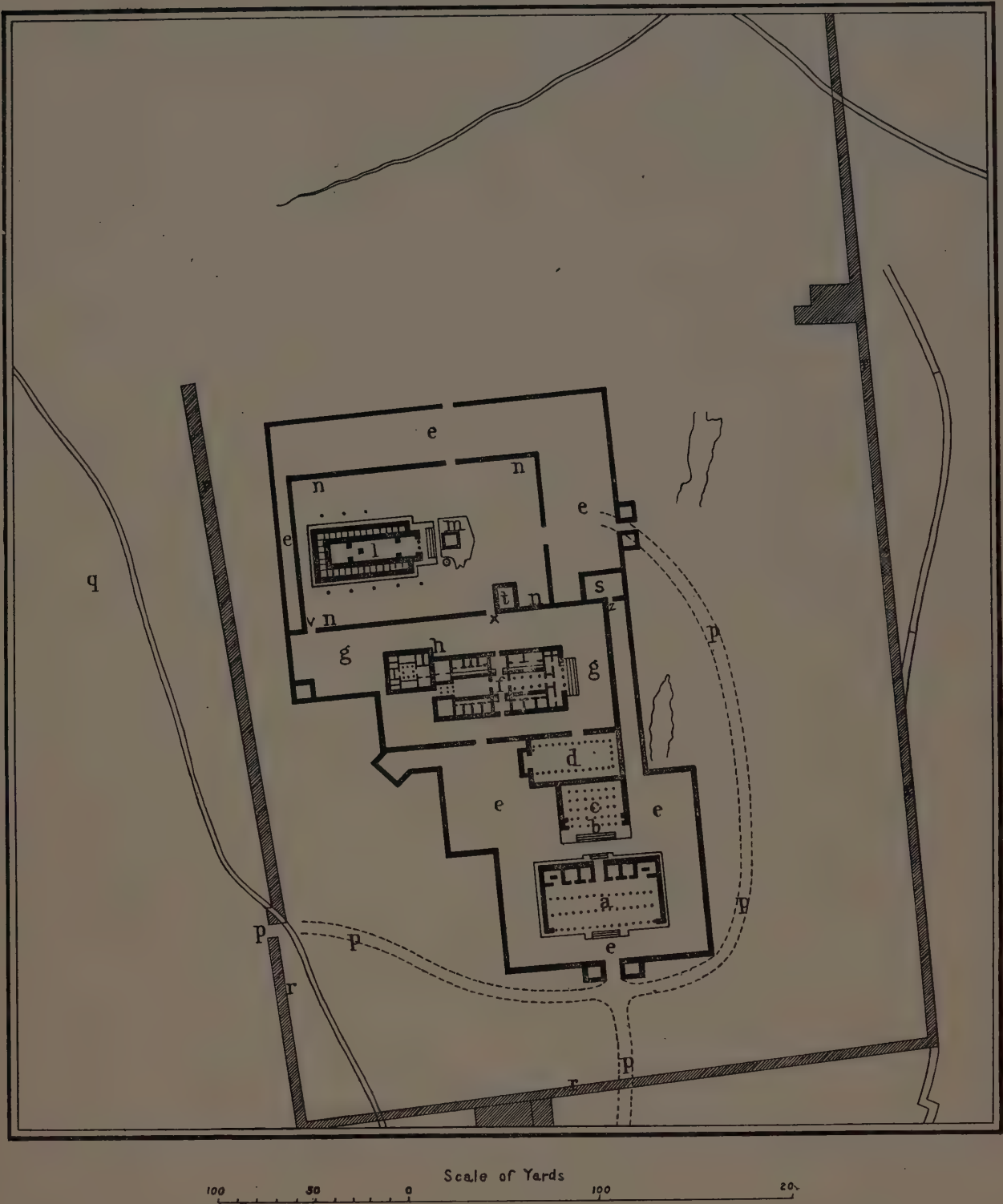
To understand the military dispositions we must now study the ground.

## THE SCENE OF THE REVOLUTION

If we take Stade's map of Solomon's Temple and its surroundings (*Geschichte*, vol. 1, p. 315; Smith's Jerusalem, vol. 2, p. 59) and proceed from North to South we find first at a height of 2430 feet above the level of the Mediterranean, the Temple itself, surrounded by courts and enclosed by walls. Southeast of it and South of the southern wall of the Temple enclosure was a group of buildings comprising the king's house and attached to it on the northwest the Palace of Pharaoh's daughter. These stood on ground 10 feet below the Temple level and were also surrounded by courts and walls. To the southeast of this group and south of its southern wall was the Throne Hall, on the southerly side of which rose the Hall of Pillars. At the north end this group was at an elevation of 2420 feet and sloped downwards towards the building immediately to the south, called the House of the Forest of Lebanon, the north end of which was at 2410 feet and the south at 2400 feet. This group composed of the Throne Hall, the Hall of Pillars and the House of the Forest was surrounded by a great court enclosed by walls. From the south there was an ascent which permitted entry into this court by a gate in the south wall. From this court there was on the east a way up to the Temple Court through a gate at the eastern end of the south wall of the Temple enclosure. Stade and Smith give us no clear con-



# PLAN OF BUILDINGS ON TEMPLE HILL IN ATHALIAH'S TIME *(following Stade and G. A. Smith)*



- |                                      |                                                |
|--------------------------------------|------------------------------------------------|
| a The House of the Forest of Lebanon | m Altar of Burnt Offering                      |
| b Threshold                          | n The Upper Court or C. of the House of Yahweh |
| c Hall of Pillars                    | pp Ascents to Palace and Temple                |
| d The Throne Hall                    | r Wall of present Haram-esh-Sherif             |
| e The "Great" or Outer Court         | s Barracks of the Ratzim                       |
| f The King's House                   | t Beth ha-Am (Parliament House)                |
| g The "Other" or "Middle" Court      | v Gate Sur                                     |
| h House of Pharaoh's Daughter        | x Palace Gate                                  |
| l The Temple                         | z Ratzim or Barracks Gate                      |



ception of the situation as it was at the time of Athaliah's overthrow. The account as given in 2 Kings 11, must be used to supplement their account. In the first place there were three gates in the south wall of the Temple enclosure: the gate *Sur* (v. 6), the gate of the guards (*Ratzim*) v. 6), and the palace gate (v. 16). If we assume, as probably we must, that the gate of the guards was at the eastern end of the southern wall of the Temple enclosure, while the gate of *Sur* was at its western end, it would reasonably follow that the royal gate was at or about the middle, which is where we would expect it to be, since Athaliah chose it for escape in her peril and would of course choose the shortest way from the Temple to the Palace. Two points still require elucidation. As we find soldiers on Temple Hill there must have been barracks for them somewhere. These barracks are implied in the expression "the gate behind the *Ratzim*" (v. 6), meaning of course "behind the *quarters* of the *Ratzim*." Whether the *Kari* are another kind of soldiers than the *Ratzim*, need not be examined here. Assuming all the soldiers of the Temple Hill to have had one building for barracks, the probability is that this building stood in the outer court at the southeast end thereof immediately covering the Gate of the Guards, which, according to the text, is "behind" the barracks.

Keeping the situation in mind we find that the real understanding of the narrative is impos-



sible unless we assign their true meaning to the words, (1) Am ha-aretz, (2) sabbath (vv. 5, 7, 9), and (3) Beth-Massach (v. 6). The first is of course the parliament. The word sabbath, which seems so easy that no one has had any doubts about it, gives no meaning at all if we understand it to be the weekly Sabbath-day. That its signification is "rest" we all know, but then a man may rest on a week-day as well as on Saturday. And yet the translators speak of them "that enter in on the Sabbath" and of them "that go forth on the Sabbath."

Viewing Sabbath as the seventh day what idea do we get? Surely not one of sanctified rest, because some of the soldiers "enter in" and others "go forth" on that day, processes which both bespeak unsabbatical activity.

The difficulty is that a soldier's account of military doings has been read with the eyes of ecclesiastics. The word shabbath in the narrative does not refer to the seventh day, but to the practice of relieving guard. The extraordinary events which were happening on Temple Hill required the active service of every soldier on the Hill, and the order was given that there should be no relief on the day in question, but that every man should remain on duty.

A soldier cannot keep awake twenty-four hours in the day, nor stand guard all his waking hours; a round of duty must be assigned to him which will not overtax his powers. If, for instance, the Temple Guards were ordinarily re-

quired to be on active duty eight hours out of the twenty-four, then it would follow that at each turn of duty one-third of their number would be relieved, that is, become *baë ha-shabbath*, "comers into rest," while another third would become *yotzëë ha-shabbath*, "goers out of rest," that is, the relieving squad. The third third would in that event have remained in barracks, or enjoyed other recreation.

On this hypothesis what happened was as follows:

The third part, being the relieved guard, were on this occasion not allowed to enter the barracks but were divided into three detachments, the first of which was to watch the Palace (v. 5), the second to be at the gate of Sur, and the third to be at the gate behind the barracks (v. 6). This disposition was intended to protect the barracks (*beth massach*) (v. 6).

The danger to the barracks against which protection was needed could only have been of one kind, namely, an apprehended attack by the Royal Guards (*Gibborim*). It is true that the narrative does not distinctly mention the Royal Guards, but there are a few hints of value. When Athaliah rushed to the Palace it was probably for the purpose of ordering out her guards to crush the revolution. The stern order to kill her was intended to prevent this. If the *Beth-massach* was, as we apprehend, at the southeast end of the Temple Court, then the gate immediately south of it must have been at the north

end of the road which led from the barracks of the Royal Guards to the barracks of the Temple Guards. Given these data we understand the orders that were given. The prime command was to protect the Beth-massach, that is, to prevent the Royal Guards from breaking through the gate and getting a foothold on the Temple Grounds. The details of the order were that a third of the relieved squad was to hold the barracks gate. Another third was to hold the western gate (Sur) which was probably a public gate for all visitors to the Temple. The third third was to watch the Palace. Where this third was stationed we are not told except negatively, namely, they were *not* assigned to the royal gate which would have been the most natural position. The reason for this disposition is obvious enough. Athaliah was to be lured into the Temple Grounds, and if the guards had been at the gate she would have called out her guards and prepared for battle. We may therefore infer that the detachment assigned to watch the Palace remained on observation, or in some convenient covert near by, ready to move at a moment's notice.

These dispositions referred only to one-third of the Temple guards. The other two-thirds (*sheté ha-yadoth*), all went forth out of Sabbath, that is, were on duty (verse 7). They were specially assigned to guard the Temple and the little king (*Ibid.*).

Something must now be said to vindicate the



translation of *massach* by the rendering "barracks." The authorized version makes the word *massach* an adverb qualifying the manner or effect of the watch kept by the guards. This word in that sense is superfluous, since all guard duty is intended for protection and not for discomfort.

In support of our hypothesis that the *Beth Massach* is the guards' house, the barracks, there are two facts. In 2 Kings 16<sub>18</sub> we are informed that Tiglath-Pileser, king of Assyria, having reduced King Ahaz of Judah to vassalage, exercised authority on Temple Hill in Jerusalem, not only by changing the pattern of the great altar, but by changing or somehow neutralizing the *musach ha-shabbath* which had been built "in the Temple" (in the Temple enclosure).

This word *musach* (variant in form from our *massach*), denotes a building called *musach ha-shabbath* or *rest-musach*, an expression which seems to identify it with the *massach* of chapter 11, as the place of *shabbath* or rest for the troops.

There is still another instance of a similar word which appears to have a closely related meaning. In the 22d chapter of Isaiah an attack on Jerusalem is foretold. In verse 8 the *masach* of Judah (its shield), is uncovered and a struggle to save the day must be made in the house of the forest.

The parallelism between the *masach* and the *beth ha ya'ar* is unmistakable, and establishes either the identity of the two or their nearness to each other in purpose and place.

A glance at the situation of the house of the forest of Lebanon shows that it stood in the proper place to resist an attack from the south and that it was looked on as a fortress which protected the Palace and the Temple. Indeed 1 Kings 10<sub>17</sub> expressly says that it was used as an armory.

Athaliah was not slain in the Temple Court because of an old law (Ki amar ha-Cohen): *Al tamuth beth Jhvh*, Thou shalt not kill in the Temple (2 Kings 11<sub>15</sub>). But the order had been given to follow and to kill her as soon as she had passed out of the court (ibid.). She passed through the middle gate on to the driveway between the wall and the Palace and was slain before reaching the Palace.

Then Jehoiada and the Am ha-aretz accompanied by the soldiery brought the king to the Palace and there enthroned him.

We have thus a clear account of the Am ha-aretz as a body of men who claimed and exercised the power of making and unmaking a king in Israel. If this were an isolated instance of such activity the incident would be relatively insignificant, would be merely a revolutionary movement and would have little bearing on the constitutional law of the Hebrews. The case, however, is far otherwise.

## E

### THE AM HA-ARETZ AND THE LATER KINGS

On the death of Amaziah the Am of Judah took Azariah (Uzziah) his son and made him

king to succeed his father (2 Kings 14<sub>21</sub>). When Azariah became a leper, Jotham his son was over the house (Shophet of the Am ha-aretz) (2 Kings 15<sub>5</sub>) and when Azariah died Jotham his son reigned in his stead (2 Kings 15<sub>7</sub>).

Amon's ministers (abadav) conspired against him and slew the king in his Palace, whereupon the Am ha-aretz slew the conspirators and made his son Josiah king in his stead (2 Kings 21<sub>23.24</sub>).

When Josiah died on the field of Megiddo, the Am ha-aretz took Jehoahaz his son, anointed him and made him king in his father's stead (2 Kings 23<sub>30</sub>). Pharaoh Nechoh within three months put an end to his reign and installed his brother Eliakim (renamed Jehoiakim) in his place. The latter exacted a tribute of silver and gold from the Am ha-aretz to give it to Pharaoh (2 Kings 23<sub>35</sub>).

In the eighth year of the reign of Jehoiachin his son and successor, Babylon, which claimed Judah as its vassal, laid siege to Jerusalem and Nebuchadnezzar captured the king, the royal family and the royal retinue, and also carried away the treasures of the Temple and the Palace. Of the Am ha-aretz only the poorer sort (*dalath*) were not carried off (2 Kings 24<sub>14</sub>), while the big men (*Elim*) of the *Aretz* shared the king's captivity (24<sub>15</sub>).

Nebuchadnezzar then placed on the throne Jehoiachin's uncle Mattaniah (renamed Zedekiah). In the ninth year of his reign, his turn came and Jerusalem was again besieged by



Babylon, the siege lasting two years. On the ninth day of the fourth month the famine prevailed in the city and there was no bread even for the Am ha-aretz (2 Kings 25<sub>3</sub>). The garrison fled, the king was captured, his troops scattered and he himself blinded and carried to Babylon.

The Babylonian general Nebuzaradan burnt the Temple and the parliament house (Beth ha-am) and broke down the city walls (Jer. 39<sub>8</sub>). Among others he captured the Sar ha-tzabah, the Grand Marshal of the Am ha-aretz, and sixty members of the Am ha-aretz who had remained in the city (2 Kings 25<sub>19</sub>) and took them to Riblah where they were, by order of Nebuchadnezzar, slain.

On the downfall of the monarchy, the king of Babylon appears to have intended to give Judea a more popular form of government. Having made way with the Elim or magnates of the Am ha-aretz, he invested the Dallim (the poor members) with the powers of that body and gave them vineyards and fields (which doubtless had belonged to the patrician section, Jer. 39<sub>10</sub>). He installed Gedaliah as viceroy (2 Kings 25<sub>22</sub>), but the latter was soon slain by the court party under the leadership of Ishmael "of the seed royal" (25<sub>25</sub>).

In the meanwhile the conqueror had freed Jeremiah, placed him under the protection of Gedaliah and selected him for President of the newly organized Am (Vayesheb betoch ha'am) (Jer. 39<sub>14</sub> 40<sub>5,6</sub>).

With the death of Gedaliah came the ill-starred flight into Egypt whither Jeremiah himself was carried, and the hope of restoring the Davidic dynasty dwindled.

The mass of evidence here collated compels the abandonment of the notion that the Am ha-aretz were merely the rabble. Their proceedings from the time that Jehoiada led them into revolt against Athaliah have not the faintest resemblance to the proceedings of a mob; while they are quite consistent with the sagacious action of a great national Council, which had its meeting place (Beth ha-'am) on Temple Hill, and which was in regular and orderly session at the time. Otherwise, the ascent of the hill by disorderly and unexpected crowds would have inevitably attracted the attention of Athaliah, her courtiers, servants, and soldiers. Moreover, we are expressly told that when all the proceedings became known, the city (*i.e.*, the bulk of the population) remained quiet. Then we must additionally take into account the repeated instances subsequently recorded in which the Am ha-aretz elected a king. That it was not the rabble who did this is evident from the fact that Pharaoh Nechoh exacted a tribute of silver and gold from the Am ha-aretz; that Nebuchadnezzar carried off a section of the Am ha-aretz to share Jehoiakim's captivity at Babylon; that at the final catastrophe great officers of the Am ha-aretz and sixty members of it were seized and sentenced to death; and last, but not least, that the Parlia-

ment house itself was destroyed. Where there is a Parliament house there is also a Parliament.

It is true that the words Beth ha-Am have heretofore not been so translated, but then on the other hand it is equally true that no intelligible meaning has ever been assigned to them.

## F

### THE AM HA-ARETZ ELECTS SAUL

As a mere illustration of the antiquity of this power of a national Council to elect a king, I digress a little from my original purpose, in order to call to your minds the circumstances of the election of the very first king in Israel—Saul.

Samuel spoke to Saul of Israel's desire to have a king and of the fact that he was the favorite; whereupon he took Saul with his servant, brought them into the meeting-hall (*Lishcah*) and assigned them places in the Assembly of the delegates (*Rosh ha-Keruim*) who were thirty in number. And Samuel said to the Master of Ceremonies (*Tabbach*):

“Bring out the portion which I gave thee:  
Of which I said unto thee:  
Set it by thee!”

And the *Tabbach* raised the shoulder and lifted it up and set it before Saul, saying these words:

“Behold the *nishar* (what is left), set it before thee, eat! For to this Assembly (*mo'ed*)



hath it been kept for thee since the day it was opened, by the words Ha'am Karathi (I have convoked the Am)" (1 Sam. 9<sub>22-24</sub>).

And Samuel said to the Am: Behold him whom the Lord hath chosen, for there is none like him in the whole Am. And the whole Am shouted "God save the king!" Then Samuel told the Am the law (mishpat) of royalty and wrote it in a book, and laid it up before the Lord.

And Samuel dismissed the Am each to his home (1 Sam. 10<sub>24-25</sub>).

A superficial reading of the authorized version conveys the impression that Samuel gave a dinner to which he invited thirty guests and Saul with his servant having casually arrived, the prophet hospitably invited him to share in the festivity.

Our interpretation is in direct opposition to this view. Samuel having been divinely instructed that Saul was the proper man for king, convoked a meeting of the Am so that in their presence the Divine choice might be made known. He relied on the interposition of Heaven to send the young man to the city on the day appointed for the Assembly.

The variance between the two interpretations is produced by the differing translation of five words in the narrative: Lishcah, Rosh, Keruim, Tabbach and ha-Am.

Lishcah means a public hall for official meetings in the 35th chapter of Jeremiah, where the history is recited that in the Lishcah of the

Ben'e-Hanan, which adjoined the Lishcah of the princes (Sarim), a numerously attended conference between a representative delegation of the Rechabites and a committee of the national Assembly was held.

The object of the conference was to induce these nomads to take up a settled, agricultural life. The Rechabites, however, sturdily refused to abandon their Bedouin customs. The national Assembly was incensed at this reluctance to accept liberal offers advantageous as well to the kingdom as to the tribesmen.

Jeremiah is commissioned to rebuke the Assembly (ish Yehudah, yoshhebé Yerushalayim) for their insistence, and to communicate to the tribesmen the Divine approval of their steadfastness to the customs of the fathers.

Another instance of this use of Lishcah is found in the 36th chapter of Jeremiah.

The prophet, being imprisoned, deposes Baruch to read his written message in the ears of the Am in the Temple, on Convocation day (Beyom tzom), in the ears of Judah, comers (Baïm) from their cities. Accordingly Baruch reads it in the Temple in the Lishcah of Gemariah in the hearing of the whole Am.

Word is immediately sent to the princes (Sarim) who were in session in the Lishcah of the Scribe.

And in later times the Sanhedrin met in the Lishcah or Hall of Hewn Stone (Mishnah Middoth 5<sub>4</sub>; Palestinian Talmud Sanhedrin I, 19c).

The rendering of Lishcah by "parlor" in our passage is therefore not necessarily correct, and as the rendering "meeting-hall" gives a more intelligible meaning it ought to be accepted.

As to the word *Rosh*, doubtless in most instances it means "head." That fact, however, does not exclude other meanings. If we look at Murray's Dictionary for the meaning of the English word "head" there will be found more than forty significations. While on the one hand it means the upper part of the body, on the other it is used for the collection of foam or froth on beer, for the source of a river, for a chief point of a discourse and finally for a body of people gathered.

So in the Hebrew Dictionary we find that besides the meaning "head," *Rosh* is defined as *beginning* (of a time); as *choicest* in quality; as the *sum* of a community, and finally as a company or band. Saul divided his men into three companies (*rashim*) (1 Sam. 11<sub>11</sub>); so did the Philistines (1 Sam. 13<sub>17.18</sub>).

The Hebrew language while it was living, in Biblical times, like all other tongues must have assigned various meanings to one and the same word.

*Rosh* in this instance means *session* or *assembly* of the *Keruim*, the Great Council sitting for political or for judicial business.

The *Keruim* are not invited guests to a private feast as the authorized version reads, but are the delegates to the Assembly. In Numbers



1<sub>16</sub> and 26<sub>9</sub> they are called Keruim of the Edah and in Numbers 16<sub>2</sub> Keruim of the Mo'ed.

In 1 Sam. 9<sub>24</sub> the occasion is expressly called the Moëd and therefore the Keruim are the delegates to the Moëd just as in Numbers 16<sub>2</sub>.

The Tabbach is not simply the cook, as the authorized version has it. The word in this form occurs only in this narrative, but his acts show that he is more than a cook—is in fact a high official performing his functions with scrupulous adherence to the ceremonial ritual. The related titles Sar ha-tabbachim and Rab tabbachim are those of exalted officials at the court of Pharaoh (Gen. 40<sub>3</sub>) and of Nebuchadnezzar (Jer. 39<sub>9</sub>).

At the simpler court of the Shophet Samuel, the Tabbach must equally have been a man of dignity and authority.

Ha-Am of course means the same as Ha-Keruim. With these definitions in mind the story assumes a form pregnant with meaning.

9<sub>22</sub>. And Samuel took Saul and his servant, brought them into the hall and seated them in the Assembly of the Delegates, who were about thirty in number.

Right here the Septuagint furnishes a significant variant. Instead of the word *thirty* the Greek translation has *seventy*, the exact number of the Zekenim.

9<sub>23</sub>. And Samuel said to the Tabbach, Bring the *manah* (portion) which I gave thee saying: Set it by thee.

9<sub>24</sub>. And the Tabbach raised the shoulder

(*shok*) and lifted it up and set it before Saul with certain ceremonial words.

Whether the word *shok* means "shoulder" as the authorized version has it or "thigh" as the revised version puts it, is immaterial for our discussion. It is important, however, to determine whether the *shok* has a ceremonial value and what that value is as also its relation to the *manah* (portion).

At the consecration of Aaron and his sons, the breast of the ram was a wave-offering and was his *manah*. The breast and the *shok* shall be Aaron's and his sons forever (Exod. 29<sub>21.26.27</sub>).

The right *shok* shall ye give unto the priest for a *Terumah* \* \* \*; it is his *manah* forever (Lev. 7<sub>32.33.34</sub>).

The *shok* as the *manah* is therefore a symbol of the greatest ceremonial importance. It was used at the Consecration of Aaron and his sons and when employed on other occasions we may fairly infer that the purpose of such use was consecrative.

Assuming this to be so we have before us ancient forms of the greatest interest.

When Samuel sets apart the *Shok* as the *Manah* of the future king he says to the Tabbach: *Sim othak 'imach*, set it by thee. This occurred not at the moment of Saul's election but earlier on the same day.

At the Zebach of the Am on the Bamah (1 Sam 9<sub>12</sub>) the *manah* must have been reserved by him publicly, in the ceremonial fashion described.

Observe now how the Tabbach acts (verse 24). He raised (*vayarem*) the *shok*; *he'aleha* (lifted it up) and set it before Saul.

Samuel then takes up the ritual:

Behold that which is left! (*nishar*)

Set it before thee and eat!

For unto the Mo'ed hath it been kept for thee,  
Since I said Ha-Am Karathi.

The point of time at which Samuel had said Há Am Karathi (the Assembly is convened) was at the opening of the session, when the sacrifice or Zebach had been offered. This is perhaps the most ancient bit of parliamentary ritual in the literature of the world, a rare *nishar* (survival).

These ceremonies on the Bamah constituted the announcement in the presence of the Council that God had chosen Saul. This was in strict conformity with the Constitution (Deut. 17<sub>15</sub>). This mere announcement, however, was not sufficient. It still devolved on the Am to elect the king (*Som tasim 'alecha melech*) (Ibid.). Accordingly Samuel convoked the Am to meet at Mizpeh (1 Sam. 10<sub>17</sub>). There he said to them: Look upon him whom the Lord hath chosen. And the Am shouted: God save the king! (10<sub>24</sub>). Then he wrote in a book the Mishpat hameluchah (the Royalty Law) and laid it up before the Lord. Whereupon the Am adjourned (10<sub>25</sub>).

It may be of interest in passing to refer to the Talmud's traditions.

As regards the functions of the great Sanhe-



drin, the Palestinian Talmud (Sanhedrin, Perek 2, Hal. 5) tells us that no other tribunal could try a whole tribe, or a whole city, or a false prophet, that without its assent the king could not declare war, nor could the bounds of Jerusalem be enlarged, nor an annex be added to the Temple. The great Sanhedrin alone had the right to install the minor Sanhedrins of 23.

And in Sanhedrin, Perek I, Hal. 4, the same authority tells us that the members of the Sanhedrin sat in a semi-circle and that the Nasi sat in the middle so that they could look at each other.

## II

### JUDICIAL POWER

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#### A

#### THE TRIAL OF JEREMIAH

Having, as we think, made good the claim of the Am ha-aretz to a high place in the political government of the country, it becomes necessary to show that the great judicial powers predicated of the Edah in the Pentateuch were possessed and exercised by the Am ha-aretz. For this purpose the first example to be cited is the trial of Jeremiah by the Am ha-aretz, in which trial the Sarim, as a co-ordinate or constituent element of the Am ha-aretz, participated.

Jeremiah was one of the greatest men in our history. From the Gospel of Matthew we learn (16<sub>14</sub>) that among the people of Cesarea Philippi there was a wide-spread opinion that Jesus was either Elijah, Jeremiah or one of the prophets, newly risen to herald the advent of the Messiah. The coupling of Jeremiah's name with Elijah's indicates the high rank that popular belief had assigned him.

Haggadic literature associates in like manner the names of Moses and Jeremiah, a sure sign of the exalted place he held in men's opinion.

Originally a member of the priestly and the prophetic Guilds he came soon to look upon both

as falling short in the great work confided to them, and thus it is that one of the greatest sons of both classes uttered the most eloquent denunciations of their official representatives. Born in 650 B.C. his public career began while yet a young man and from the thirteenth year of King Josiah (626 B.C.) to the conquest of Jerusalem (586 B.C.) and still later, he was perhaps the most distinguished figure in the Judean kingdom.

His activity was exercised during the reigns of Josiah (659-608), Jehoiakim (608-597), and Zedekiah (597-586), and continued after the downfall of the latter.

It was in the beginning of Jehoiakim's reign that Jeremiah stood in the Temple Court and spoke to "all the cities of Judah in the hearing of the priests and the prophets" the Divine message: "If ye will not hearken to me, to walk in my law, to heed the words of my servants the prophets, then will I make this house like Shiloh, and this city a curse to all the nations of the earth" (Jer. 26<sub>1-6</sub>).

The speech must have been a passionate appeal to the Am for definite action on a burning question. Moreover, it must have been publicly announced beforehand that the priests and the prophets would be arraigned for shortcomings. They appeared in force ready to take advantage of one whom they looked upon as their enemy and the enemy of the State.

When he had spoken the fateful words, they shouted, as with one accord: "Thou must die."



It was a solemn indictment before the Am charging Jeremiah with the capital crime of blasphemy. At once the Am was formally convened in its meeting-hall on Temple Hill to consider the case (26<sub>9</sub>). The Sarim were duly notified, proceeded to the Assembly from their quarters in the royal Palace and took their accustomed seats in the Hall by the door of the New Gate (26<sub>10</sub>).

In the narrative of the Athaliah revolution we had occasion to remark that in the south wall of the Temple Court there was behind the royal Palace a gate by which the queen-mother passed on to Temple Hill. It is near the site of this gate and hard by the wall that the Beth-Am must have stood about the year 600, though the old gate had disappeared and there was in its place a New Gate of the Lord by which on this occasion the Sarim entered the Lishcah, and hard by this gate was the station assigned to them in the meeting of the Am ha-aretz.

The two chambers being seated the Court was opened. The priests and the prophets laid their formal complaint before the Sarim and the Am demanding judgment of death (*mishpat-maveth*) against Jeremiah; for that he hath prophesied against the city in the manner just recited in the complaint (26<sub>11</sub>).

The technical offence charged was blasphemy, in modern parlance, high treason.

To understand the situation we must remember that the priests and the prophets each of which bodies constituted a brotherhood or guild

were probably respectable and well-meaning men who tamely followed the current of fashionable opinion. Jeremiah was by birth entitled to membership in the former and was in his early years probably a member of the latter. He was now arraigning both before the representatives of the nation.

They were sincere therefore when they impeached Jeremiah, who, in their eyes, was a disturber of the public peace and an inciter to revolution against Church and State.

The evidence they gave was true. They merely recited the words he had used and he admitted the fact.

The question of law raised was: Whether the admitted fact constituted blasphemy.

That public excitement ran high may well be imagined. A prophet spurned by the regulars, but excelling them all in eloquence and reputation was sure to be a popular hero. The fact that under these circumstances Jeremiah spoke his denunciation within a few feet of the royal Palace and within the Temple precincts controlled by the priestly and prophetic guilds, bears witness to the freedom enjoyed by the people and to the firm reliance men had in the honest administration of the law.

Jeremiah spoke thus in his defence: "Sarim and Am, the Lord sent me to prophesy against this Temple and against this city. If ye amend your ways and your doings and obey the voice of the Lord your God, the Lord will repent him

of the evil that he hath pronounced against you. As for me, I am in your hand. Do with me as seemeth good and meet unto you. But know, for certain, that if ye put me to death, ye bring innocent blood upon yourselves, upon this city and upon its inhabitants; for, verily, the Lord hath sent me unto you to speak these words which ye have heard'' (26<sub>12-15</sub>).

The defence was dignified and noble and worthy to be spoken in the highest Court of the realm.

The first speech was for the prosecution. One of the Zekenim who favored that side opened, not by a vulgar tirade, but in the legal fashion of a country long accustomed to fair and open judicial procedure. Relying upon a recent precedent he said: In this very reign of Jehoiakim there was Uriah the son of Shemaiah of Kiryath-yearim who also prophesied in the name of the Lord against this city and against this land just as Jeremiah has done. And when the king Jehoiakim, his Gibborim and his Sarim heard the words, the king ordered his death, and when Uriah learned this, he was afraid and fled into Egypt. And the king sent Elnathan and certain men to follow him into Egypt, and they brought him back to the king Jehoiakim, who slew him with the sword and cast his dead body into the cemetery of the malefactors (Bené ha-Am (26<sub>20-23</sub>)).

The speech was a dangerous one. It threw in the teeth of the assembled Sarim and Am the



accusation that they had, a short time before, themselves adjudicated the question in harmony with the Royal will and that the accused had with their assent or acquiescence suffered death.

Then one of the Zekenim whose name is unfortunately not preserved spoke: Micah the Morasthite in the days of Hezekiah, prophesied in an address to the Am, "Zion shall be ploughed like a field and Jerusalem shall become heaps, and the Temple Mount like the Bamoth of forests." Did Hezekiah and Col-Yehudah put him to death? Did they not rather fear the Lord and beseech the Lord, and lo, the Lord repented him of the evil which he had denounced against them? We may do great evil to ourselves (26<sub>16-19</sub>).

And then rose Ahikam one of the Sarim, a distinguished scion of the great house of Shaphan. In his family had been for at least two generations the high office of Sofer of the Am ha-aretz, in whose Lishcah the Sarim had their meeting-hall (Jer. 36<sub>10-12</sub>). His father had been one of the great men in Josiah's reign (2 Kings 22<sub>3</sub>). It was to him that Hilkiah communicated the news of the finding of the Sefer ha-Torah (2 Kings 22<sub>8</sub>) and he it was who read it to the king (verse 10). And among the Royal Commission of five appointed by Josiah to put in force the new Constitution of the realm were Shaphan and his son our Ahikam (2 Kings 22<sub>12-23<sub>25</sub></sub>). And Ahikam's son was Gedaliah, so famous in Jewish annals, who, appointed viceroy of Judea by the Baby-

lonian monarch fell a victim to the unworthy jealousy of the decadent Court party, and thereby earned immortality in Israel.

We may be sure that Ahikam spoke with no uncertain words. His address has not survived, but its effect was so striking that Jeremiah's acquittal by the Am was afterwards attributed to it. The notice is brief but eloquent: The hand of Ahikam ben Shaphan was with Jeremiah that he might not be condemned to death by the Am (Jer. 26<sub>24</sub>).

The great prophet was acquitted. Fortunately the words of the judgment are preserved, a precious relic of the practice of the High Court: The Sarim and the Am declare to the priests and the prophets that this man( Jeremiah) is not liable to the *mishpat maveth* (is not guilty of anything deserving death), he having spoken to us in the name of the Lord our God" (Jer. 26<sub>16</sub>).

One word in conclusion as to the linguistic peculiarities of the narrative. There are some errors in the text doubtless, but none that lead to confusion. The term Am ha-aretz does not occur in it. In lieu thereof we have the expressions: cities of Judah (meaning the delegates to the Am) (Jer. 26<sub>2</sub>); col ha-Am (verses 7, 8, 9, 11, 12, 16); Sarim ve-col-ha-am (verses 11, 12, 16); zikné ha-aretz (verse 17); Col-Kehal ha'am (verse 17); col-Am Yehudah (verse 18); col Yehudah (verse 19) and ha-Am (verse 24).

## B

## THE TRIAL OF NABOTH

The trial of Jeremiah took place in Jerusalem about the year 600 B.C. The trial of Naboth came off in Jezreel in the northern kingdom more than two hundred and fifty years earlier. The order of my treatment may seem inverted but it was deemed better to show the Am and Sarim sitting together as a Court in unmistakable fashion in Jerusalem before asking attention to the existence of the same ancient institution in Ephraim.

By a singular coincidence the charge in this case too was blasphemy (leze-majesty or high treason).

Naboth, a member of the national Council was a resident of Jezreel where among his paternal estates was a vineyard hard by King Ahab's Palace. The king wished to buy it and offered in exchange its money value or a better vineyard. Jezreel being a walled city, such a sale would have made the law of Jubilee inapplicable and the inheritance of his fathers would have been forever lost to the family of Naboth. He received the proposal with horror and flatly refused. The king showed his annoyance. Jezebel the queen, remarking it, asked the reason and heard the story. The haughty Tyrian princess railed at the royalty which could not accomplish so little a thing (1 Kings 21<sub>1-7</sub>). The Constitution could, however, not be overcome. There was in Israel



no power in the king to take away the property of his subjects without their consent. Nevertheless the law which could not be changed by force might be evaded by fraud. With Ahab's acquiescence she assumed the royal powers for the purpose. In the name of the king she wrote *sefarim* (writs or letters) and sealed them with the royal seal, addressing them to those of the Zekenim and the Horim who dwelt in Jezreel, fellow-members (Yoshebim) of the National Council with Naboth. These resident delegates evidently constituted a committee whose duty it was when the Council should be convoked to meet in their city, to notify the members of that fact and to make all arrangements necessary for the session. The writs required this committee to convoke the Assembly (*Kiru tzom*). Doubtless these were letters patent and were addressed to all the resident members including Naboth himself.

With them, however, must have gone secret instructions of which Naboth was to have no inkling. By virtue of these the business of the session was to try Naboth on the charge mentioned, to convict him of this capital offence, to execute him and to confiscate his estate.

It may be that Naboth in his indignation at the king's proposal had uttered some hasty words. However that may be, they were insufficient to warrant the course directed to be pursued.

In order to make the conviction sure and give

it the appearance of regularity, the pliant committee were advised to hire two perjured witnesses who would give the necessary testimony. The plan was carried out to the letter. Naboth was executed and Jezebel was duly notified.

Then Jezebel, triumphing over Ahab, said to him: Take possession of Naboth's vineyard, and Ahab did so.

The sleepless tribune of the people, the prophet Elijah, boldly confronted the royal malefactor in his new domain and foretold the equal and retributive justice of God against him and his line. And as to Jezebel who had caused Naboth to descend into a dishonored grave, the rite of burial should be denied her and her carcass become food for ravening dogs.

And the noble committee of Zekenim and Horim who had been so pliant to the will of Jezebel and who were equally ready to murder Ahab's progeny when Jehu's rebellion proved successful, met their due reward at the hands of Jehu himself (2 Kings 10<sub>1-11</sub>).

That we have before us the record of historical events which made a deep impression upon the people is evident from the first and second chapters of Hosea. The prophet's words indicate that the people at large had a keenly developed sense of justice and law, that this had been shocked by the crimes committed and that Heaven itself would avenge the wrong.

The details of the narrative furnish convincing evidence of the existence of constitutional

limitations in the northern kingdom and that such limitations were unknown in the neighboring kingdom of Tyre.

The case was a capital case involving the life of the defendant as well as his property (1 Kings 21<sub>13-15-16</sub>). And yet the Court had no power to disbelieve witnesses. So soon as the requisite number of them had declared the fatal facts, the judgment seems to have been inevitable (verse 13).

However strange this view may seem to us now, it appears to be consistent with ancient Hebrew law. The Decalogue (Exod. 20<sub>16</sub>) expressly forbids false witness and Deut. 19<sub>21</sub> providing for the punishment of this crime enacts: "Thine eye shall not pity but life shall go for life." He that swore away a man's life was to die for it. For this reason the blame is not thrown upon the Am in general, but only on the managing committee who perpetrated the iniquity and virtually compelled the other members to kill Naboth and confiscate his property. It was the city members, his townsmen, who did this to gain the royal favor (verse 11), and upon them fell the Divine punishment for the judicial murder.

The difficulties in the narrative are not to be ignored. The words *Kiru tzom* are by the authorized version rendered "Proclaim a fast." We have already seen that *Kara* is the technical word for convoking the Assembly, and that its members are called *Keruim*. The word *tzom*,



translated "fast," sometimes means a convocation of the national Council. In two instances (Jer. 36<sub>6,9</sub>) the word is used to describe a gathering of the Am (all Judah, comers from their cities; the Am in Jerusalem and the Am, comers from the cities of Judah). Joseph Kimchi, the father of Moses and David Kimchi (quoted by David Kimchi in his Lexicon and by Luzzatto in his Commentary on Jeremiah) expressly says that *tzom* in 1 Kings 21<sub>9,12</sub> and in Jer. 36<sub>9</sub> does not mean fasting, but a popular assemblage.

Placing Naboth *berosh ha-Am* is of course a difficult phrase, rendered by the authorized version "Set Naboth on high among the people." Yet after all it is identical with the *Rosh ha-Keruim* of 1 Sam. 9<sub>22</sub>. The difficulty is purely lexical and need not concern us. The context makes it certain that Naboth was to be tried and was tried by the Am just as Saul was to be tested and was tested by the Keruim, and that the word *berosh* describes the fact whatever its ordinary or root meaning may be. It is, however, a matter of great interest to ascertain what *rosh* really means because the understanding of it may throw light on other Scriptural passages.

The bluntest meaning of *be-rosh* would be: a specified position or place in a court-room or assembly room, set apart for the reception of criminals on trial or of persons to be approved or rejected. That such a place might have been used in a Hebrew court-room or assembly-room and that it might have been called the *Rosh* or head, is of course possible.

The more probable meaning of Berosh ha-Am would seem to be "in the session of the 'Am." In speaking of a man on trial for crime, there are places in England and in this country where it would be said that he is "in the sessions," because courts of criminal jurisdiction are frequently so called. Such a use of the word Rosh is not without analogy.

Neh. 12<sub>46</sub>. In the days of David and Asaph of old there was a Rosh (guild) of singers.

1 Chron. 16<sub>7</sub>. On that day David delivered in the Rosh (session of singers) the Lehodoth ladonai (the 92d Psalm or perhaps a whole series of psalms of similar purport) into the hand of Asaph and his brethren.

Judges 9<sub>37</sub>. One rosh (company of soldiers).

A guild or company is after all but a relatively small aggregation. The word Rosh soon acquired a larger sense. When the census of Israel was to be taken (Exod. 30<sub>12</sub>, Numbers 1<sub>2</sub>) the expression used is *Nsa Rosh*, which means literally, lifting up the head, but practically, taking up the number or sum of the people.

Of course *Nsa Rosh* as census-taking is an exercise of political power. But the expression has also a judicial sense in two narratives, Gen. 40<sub>13.19</sub>, Jer. 52<sub>31</sub>. In both instances persons who have been undergoing punishment have their cases reconsidered.

The generally accepted meaning of the term *Nsa Rosh* in these cases is to pardon, to restore to honor. Unfortunately for this definition one

of the three persons affected by the process of Nsa Rosh, was not pardoned but hanged.

The usual definition is therefore untenable unless we assume that in one of the finest pieces of writing in Genesis, the history of Joseph, the beauty of the style and the gravity of the theme (the loss of a gentleman's honor, life and estate), are suddenly marred by the unexpected levity of a play upon words.

The real meaning is that the case was taken up anew, was reconsidered, doubtless with a view to conferring grace and pardon if practicable. In our own language, the transfer of a judgment to an Appellate Court for review is familiarly called "taking up the case."

Gen. 40<sub>13</sub> would then be rendered: Within three days Pharaoh will take up thy case (consider it) and he will restore thee to thy office.

Gen. 40<sub>19</sub> would mean: Within three days Pharaoh will take up thy case (consider it) and shall hang thee on a tree; and the birds shall eat thy flesh from off thee (*me'alecha*).

Gen. 40<sub>20</sub>. And it came to pass the third day, which was Pharaoh's birthday that he made a feast to his ministers and he took up the case of the chief butler and of the chief baker with his ministers.

Gen. 40<sub>21</sub>. And he restored the chief butler into his butlership again.

Gen. 40<sub>22</sub>. But he hanged the chief baker.

The only difficulty in the text is the word *me'alecha* in the 19th verse. It occurs twice,



once naturally at the end of the verse (after the word *besarecha*), and again in the middle of the verse after the word *roshecha*. This last insertion seems a mere copyist's error, since verse 22 alludes to no punishment that had been inflicted save hanging. Decapitation is not mentioned.

The meaning here suggested is in harmony with Jer. 52<sub>31</sub>, where it is related that Evil-Merodach, King of Babylon, *nasa et-rosh* (took up the case) of Jehoiachin, King of Judah, and brought him forth out of prison. Here as in the passages from Genesis, the case is first considered and then the result is announced. If the suggestion here made is correct it would follow that the word *me'alecha* after *roshecha* would have to be elided from Gen. 40<sub>19</sub>.

It is to be noted here that both cases occur in foreign countries, the one in Egypt, the other in Babylon; that in the former the king was celebrating his birthday by a feast to his ministers, and in the latter Evil Merodach, was celebrating his accession to the throne. Both were occasions when it has always been and still is customary for royal persons to hold Beds of Pardon and grant grace as freely as practicable. Perhaps the inference is allowable that in Israel the constitution and the laws so limited the royal power that there was much less opportunity for the exhibition of capricious grace or wanton cruelty by the king, than in the other monarchies of the near East.

There is another instance of this use of the

word *Yissa* in Habakkuk. In his first chapter he complains of the law's delays.

Verse 3. There is the *rib* (the issue to be tried) and the *madon* (judgment) *Yissa* (is taken up, appealed).

Verse 4. Therefore the law is slacked, and judgment doth never go forth; for the offender doth compass about him that hath the right of it; therefore twisted judgment is rendered.

Of the limited nature of the Judean king's pardoning power there is a striking instance in King Zedekiah's time. Jeremiah advocated certain measures which neither the king, nor his ministers, nor the Am ha-aretz would adopt (Jer. 37<sub>2</sub>). The probability is that he warned them against the Egyptian alliance, foreseeing Babylonian pre-eminence (46<sub>19-26</sub>) and the dire results of Babylonian enmity (37<sub>8-10</sub>). A charge was trumped up against him that he was about to desert to the Chaldean enemy, for which alleged act of treason he was whipped and imprisoned (37<sub>13-19</sub>) and the king was asked in effect to sign his death-warrant on the ground that "he weakeneth the spirit of the garrison and of the Am by speaking to them as he does. He seeketh not the welfare of the people, but the hurt" (38<sub>4</sub>).

Zedekiah did not dare to refuse (Jer. 38<sub>5</sub>), and gave the Sarim their warrant in these words: "Behold he is in your hand; for the king cannot do anything against you."

The mode of death chosen was not one of those prescribed by law. He was put in a loath-

some place where he would be sure to die and his death could be represented to the people as due to natural causes or to accident.

The interference of a powerful friend, a member of the king's cabinet, saved Jeremiah's life. But even with this influence at work, the king did not dare to pardon Jeremiah. He merely changed the prison. And when, before doing this, he had an interview with Jeremiah on the great political question involved, he told the latter in effect that the Sarim would immediately investigate the matter and if the subject of the interview were disclosed they would surely put him to death, warning him at the same time to be prudently reticent, and merely to tell them that he had presented to the king a petition for removal to another prison (38<sub>7-28</sub>).

And in point of fact the Sarim immediately brought Jeremiah before them and made inquiry as to the nature of his interview with the king. He suppressed the main portion and was allowed to return to the milder prison, where he was found when the Babylonians captured the city.



### III

#### THE WITNESS OF LITERATURE

When ideas are deeply rooted in the consciousness of a nation they find literary expression. If our view of the meaning of these words Am ha-aretz and Rosh be correct, the Hebrew literature ought to confirm it.

I have already said that the word Am ha-aretz is usually rendered "the people at large as a body; common people." Ezekiel 7<sub>7</sub> has been often used by lexicographers to support this view. And yet it is Ezekiel himself who has furnished the only real definition of the word in Biblical literature and that in a contrary sense. In his 22d chapter, verse 29, he complains that the Am ha-aretz have used oppression and exercised robbery, have vexed the poor and needy and have oppressed the stranger wrongfully (*belo mishpat*, denying justice). The plain meaning is that this very Am ha-aretz, violating its function to deal out *mishpat* (judgment), oppresses the people at large. Such a conception unerringly points to a governing body which has departed from its original purpose to represent the people and is acting in hostility to the latter. And an examination of the six other passages in Ezekiel confirms this view.

In 7<sub>26.27</sub>, foretelling evil doom, he enumerates calamities: the law (*torah*) shall perish from the

*cohen* and *counsel* from the *Zekenim*, the *king* shall mourn, the *nasi* be clothed with desolation and the hands of the *Am ha-aretz* shall be troubled. This is a catalogue of magnates of the country. Similar lists are found in 22<sub>26-29</sub>: *priests, sarim, prophets, Am ha-aretz*.

Jeremiah has like enumerations:

- 1<sub>18</sub>. King, sarim, priests, Am ha-aretz.
- 34<sub>19</sub>. Sarim, sarisim, priests, Am -ha  
aretz.
- 37<sub>2</sub>. King, ministers, Am ha-aretz.
- 44<sub>21</sub>. King, sarim, Am ha-aretz.
- 52<sub>24, 25</sub>. Cohen ha-rosh, Cohen ha-Mish-  
neh, door-keepers, general of  
the army, king's cabinet, mar-  
shal of the Am ha-aretz, mem-  
bers of the Am ha-aretz.

Job does the like (12<sub>18-24</sub>): king, priests, zeke-  
nim, nedibim, Am ha-aretz, as does Haggai (2<sub>4</sub>):  
Zerubbabel, high priest, Am ha-aretz.

Moreover, Ezekiel puts the Nasi in direct  
relation with the Am ha-aretz and even places  
him in the middle where its President should be.

In Ezekiel 45<sub>16</sub> the Am ha-aretz gives an  
oblation for the Nasi and in

- 45<sub>22</sub> the Nasi gives an offering for him-  
self and for the Am ha-aretz.
- 46<sub>1</sub>. The gate of the inner court that  
looketh to the east shall be  
opened on Sabbath and on the  
day of the new moon;
- 46<sub>2</sub> the Nasi shall worship at the thresh-  
old of this gate and

46<sub>3</sub> the Am ha-aretz shall worship at the door of this gate.

46<sub>8</sub> When the Nasi shall enter he shall go in and go out by the way of the porch of this gate.

46<sub>9</sub> But when the Am ha-aretz shall come before the Lord in the solemn feasts, he that entereth in by the way of the north gate to worship shall go out by the way of the south gate; and he that entereth by the way of the south gate shall go forth by the way of the north gate (one half comes in by the north gate; the other half by the south gate);

46<sub>10</sub> And the Nasi in the midst of them (*betocham*); when they go in, he shall go in; and when they go forth, he shall go forth.

And yet another thing. Ezekiel (12<sub>19</sub>) by apposition defines the Am ha-aretz as the *yoshebé yerushalayim* and the *admath Yisrael*, both apt expressions for delegates.

Here are instances of parallelism:

Isaiah 1<sub>10</sub>: Hear the word of the Lord *Ketzi-nim* (nobles) of Sodom; Give ear unto the law of our God 'Am of Gomorrah.

Psalms 107<sub>32</sub>: Let them exalt him in the meeting of the Am, And praise him in the Assembly of the Zekenim.

The most striking passage of all is Job (12<sub>2</sub>).



Job's friends having irritated him with long preachments and Zophar having impeached his good sense (11<sub>6</sub>) he at length breaks out: "No doubt ye are the Am and wisdom will die with you." No one has ever before been able to assign a satisfactory meaning to this sentence.

There is still the term *Keber* or *Kibré bené ha-Am*, the graves (or cemetery) of the *bené ha-Am*. In 2 Kings 23<sub>6</sub> the implements of heathendom are burned and the ashes thrown upon this place. In Jer. 26<sub>23</sub> the prophet Uriah having been executed for blasphemy, his dead body was thrown into the same place.

The translators render, in one place, "the graves of the common people," and in the other, "the graves of the children of the people." These variant definitions of the same expression have this in common that neither gives any sensible meaning. Assuming the common people to be the majority of inhabitants, it is incredible that their graves should be subject to gross defilement.

If, however, we reflect for a moment, the difficulty seems capable of a reasonable solution.

Blasphemy, as is well known, was punishable by death; the form of death, stoning, was looked upon as the severest of all. The ancient mode of inflicting this punishment was by taking the offender to a place at the edge of a deep depression, when the first witness gave him a push in the back which precipitated him into the depth below so that the fall itself might produce death. If this result was not obtained, the second wit-

ness threw the first stone upon the victim's chest. If he was still alive the whole Am threw stones upon him (Deut. 13, 17<sub>7</sub>; Lev. 24<sub>14.16</sub>; Mishnah Sanhedrin VI. 4).

There was doubtless a place of execution overhanging the Kidron valley, and the burial-place was at or near the point where the bodies fell. Such a cemetery for the victims of the Am might by a euphemism be called "the cemetery of the children of the Am" and would of course suggest horrible defilement.

When, therefore, the implements of idolatry were reduced to ashes and this form of worship was to be publicly disgraced, the natural place for depositing the ashes would be this cemetery of the malefactors.

The texts all fit in with this meaning. The existence of such a place of defilement in the Kidron valley is established for the time of Asa (1 Kings 15<sub>13</sub>, 2 Chron. 15<sub>16</sub>); for the time of Hezekiah (2 Chron. 29<sub>16</sub> 30<sub>14</sub>); and for the time of Josiah (2 Kings 23<sub>6</sub>).

The description of Jer. (31<sub>40</sub>) thus becomes plain. He speaks in Messianic language of the time when that which is now defiled shall become sanctified, using this language: "And the whole valley of the carcasses, and of the ashes, and all the fields (?) unto the brook of Kidron \* \* \* shall be holy unto the Lord."

In early times this place of execution overhanging the Kidron valley in or near Jerusalem was probably called Azazel. Much curious learn-

ing has been expended on this name as well in ancient as in modern times, but the sober judgment of the Rabbis that it meant a steep cliff, though perhaps imperfect on the score of etymology, is as regards the substance of the matter, correct (Talmud Babli, Yoma 67b).

The ceremony of the Scapegoat (Lev. 16<sub>21</sub>), the atonement of the nation for blood shed by undiscovered malefactors, is an extension to the whole country of a similar ceremony once incumbent upon the inhabitants of a city (Deut. 21<sub>1-9</sub>).

The high-priest laid his hand upon the head of the goat. It was then sent off into the wilderness and by a push in the back thrown down to its death from a sheer mountain-cliff (Mishnah, Yoma VI<sub>4</sub>).

That these proceedings are in entire analogy with the ceremonies at the execution of criminals appears from the old law (Lev. 24<sub>14.16</sub>) where in cases of blasphemy the Edah stoned the criminal while the witnesses laid their hands upon his head.

It is fair to conclude that originally Azazel was the name of a high point in or about Jerusalem, that it overlooked the Kidron valley and was the place of execution. In later times the name was transferred to the height some miles off, from which the scapegoat was hurled.

To these literary quotations concerning the Am I may add as an item of interest that celebrated Amoraim, sixteen hundred years ago divined the meaning now assigned to it.



Jonathan ben Eleazar in the third century and Abahu about the year 300 found the Sanhedrin, the former in the Am ha-aretz of 2 Kings 25<sub>18-21</sub> and Jer. 52<sub>24-27</sub> (Talmud Yerush., Sanhedrin, Perek 1, Hal. 2) and the latter in the Edah of Numbers 27<sub>21</sub> (Talmud Babli, Sanhedrin 16a).

As regards the word Rosh, literary examples (besides those already adduced) are not wanting.

Deut. 20<sub>9</sub>. And it shall be when the shoterim have made an end of speaking to the people, that they shall make captains of the armies be-rosh ha-Am (in the session of the Am).

Deut. 33<sub>5</sub>. And he was king in Jeshurun, when the Rashé-Am were gathered together—the tribes of Israel.

Ibid. 33<sub>21</sub>. Of Gad—And his was the first place, because there in the portion of the lawgiver (mehokek) was he seated, and there—the Rashé-Am having come—he executed the decree of the Lord and his judgments with Israel.

Judg. 9<sub>34</sub>. Four rashim (companies).

9<sub>37</sub>. One rosh (company).

9<sub>43</sub>. Three rashim (companies).

2 Sam. 3<sub>8</sub>. Am I of the Rosh (Council, League) of Caleb which is with Judah?

1 Sam. 28<sub>2</sub>. Therefore I will make thee perpetual *shomer* (officer, perhaps like *shoter*. See also 2 Kings 9<sub>14</sub>) of my rosh (council).

2 Kings 2<sub>3.5</sub>. The Lord will take away thy master from thy *rosh* (guild) to-day.

Isa. 51<sub>20</sub>. Berosh (in the concourse) of streets.

Jer. 31<sub>6</sub>. Berosh ha-goyim (in the council of the nations).

Ezek. 21<sub>26</sub>. The King of Babylon stood at the parting of the way, at the union (rosh) of the two ways.

38<sub>2,3</sub> 39<sub>1</sub>. Magog the Nasi of the rosh (league, union) of Meshech and Tubal.

40<sub>1</sub>. Berosh ha-shanah (in the annual Council) on the tenth day of the month.

Amos 6<sub>7</sub>. Therefore shall they go captive with the company of exiles (Berosh golim).

Prov. 1<sub>21</sub>. At the concourse (Rosh) of streets she crieth, at the leaves of the city-gates she uttereth her words.

Prov. 13<sub>23</sub>. Much food is in the tillage of the just (Rashim) but there is that is destroyed for lack of judgment (Mishpat).

Mic. 3<sub>11</sub>. Her Rashim (courts) judge for reward; her priests teach for hire and her prophets divine for money.

Ps. 108<sub>9</sub>. Ephraim is the strength of my Council (Rosh); Judah is my lawgiver (mehokek).

Job 1<sub>17</sub>. Three bands (Rashim).

Job 22<sub>12</sub>. Behold the company (Rosh) of the stars, how high they are!

Ezra 9<sub>6</sub>. Our iniquities reach to the Rosh (Council) on high and our trespass is grown up to Heaven.

1 Chron. 12<sub>23</sub>. Rashim (companies) of soldiers.

The conclusion of the whole matter is but this question: Does Am ha-aretz mean the

common people or does it mean a body of delegates akin to a Parliament or to a Congress?

And now it remains for me to sum up. In doing so I shall not confine myself to the evidence above produced. The whole mass of data from the beginning to the catastrophe of 586 will be taken into account, and the conclusions formed therefrom will be given so as to make clear my notion as to the mode in which the constitutional history of Israel should be viewed.

One digression I shall, however, permit myself. As the whole of the argument tends to prove that the Sanhedrin which we know of, had its roots in the very beginnings of the Hebrew people, so in all probability the Oral Law that we know had its origin in the earliest times. Naturally it developed, as all common law does, by slow gradations and small accretions, but that it had a definite form many hundred years before ever a Mishnah was written, seems obvious and inevitable. I shall cite but one example and that from the first book of Kings 3<sub>16-28</sub>.

It is the celebrated judgment of Solomon. Two women claimed the possession of a child, each declaring herself its mother. The question to be decided was, Which has the right of it? Witnesses there were none, so that the matter was left in equilibrium. An arbitrary judgment at the mere will of the king was according to Hebrew ideas unthinkable. He had fervently prayed to God to give him a "*hearing*" heart to



judge (1 Kings 3<sub>9</sub>), and the prayer had been granted that he become wise "*to hear*" mishpat (3<sub>12.13</sub>). So is the function of the true judge defined: "Hear both sides and judge aright" (Deut. 1<sub>16</sub>). The Court had heard the two women, but as their statements neutralized each other, there appeared to be no means of judgment save mere favoritism.

And yet Solomon without hesitation pronounced a judgment as formal as if it had been read from a volume of Precedents, reciting the averments of each party and decreeing a division of the child into equal halves, one to each.

In later times when the precedents on all questions were codified in the Mishnah, there was inserted in Baba Metzia, ch. 1, §1, a paragraph which startlingly resembles Solomon's law. The question there is, What is to become of a divisible piece of personal property which two claim with apparently equal right, and the solution is an avowal of the inability of the law to do exact justice, and hence as a compromise the parties share equally.

The similarity of the phraseology between the two instances is astonishing, and the choice is left us to believe, either that the Mishnah, eight hundred years later, copied this form, or that in Solomon's time the law for dividing property under such circumstances was already known, and that, for want of law or precedent to govern the puzzling case before him, he with audacious humor pretended to believe that the rule con-

cerning inanimate goods would apply to a living being.

The first supposition seems the easier to accept. Reflection, however, tends to make it more and more improbable. The idea of cutting in half a baby smiling at you, for the purpose of solving a legal puzzle, would not occur to a man, especially not to a royal gentleman like Solomon. And even impish suggestions are more likely to have some associated idea behind them than to be merely grasped out of the air.

The second supposition is more in accord with human nature. The division of the child would then be suggested by a well-known principle which everybody recognizes, but which nobody would ever think of applying to the case in hand. Driven into a corner the king in a flash sees how it can be used to bare the souls of the parties, lets fly his arrow and hits. It is the triumph of wit and psychology.

Should the latter view be accepted we have in the Book of Kings the earliest Mishnah yet identified, the incident itself going back a thousand years before the Common Era, and the book in which it is recorded being by the best critics assigned to 600 B.C.

This view moreover supports our main thesis. If some unwritten law which the Sanhedrin administered, may be traced back a thousand years, there is nothing improbable in supposing that the Tribunal itself may have had a precursor, equally ancient.

Strange as the view may appear there is really nothing improbable in it. All written law is preceded by oral law, and so soon as written, the process of making new oral law, however sternly inhibited, at once begins. The difficulty of applying this principle to the Jewish oral law, arises only from the unscientific notion held by many, that all such accretions are equally old. So soon as we understand the true nature of oral law, it becomes obvious that some of it must be of immense antiquity, and that as to it, the old notion that it is coeval with the Torah is not, as has often been supposed, an absurd extravagance.

And now, to conclude. If you find that the new meanings proposed for Am ha-aretz, for Am, for Rosh, give a clearer and more intelligent sense to the passages in which they occur, than do the meanings heretofore assigned to them, the inference is easy that the old meanings are wrong and that the new meanings are at least a step in the right direction. Moreover, if, following this path, you find that not only was there a Parliament, but that it rose from small beginnings until it reached a worthy development, you may fairly conclude that the subject is at least worth re-examination.

The Parliament of Israel had its humble beginnings at the city gate, where the elders of the town, "comers to the gate," sat to hold the Town Council and the Municipal Court. Gradually there was evolved, from this familiar insti-



tution, the tribal Am which dealt with the larger matters of the district inhabited by the tribe. Friendliness among neighbors and the necessity of defence against enemies produced alliances between several tribes, and finally there resulted a union of all or nearly all the tribes of Israel. Then only could there have been formed a general gathering of delegates, an Am of the land, our Am ha-aretz.

The period of the Judges was a time of probation and preparation for national unity, and it was the last and the greatest of them, Samuel, who began to put this idea into practical effect. With bitter heart-burnings and regrets, he executed the plan which he knew to be an advance in the greatness of his people, but concerning which he feared that it might lead to a diminution of their liberties.

It became his duty and his privilege to convene the first Congress of United Israel, the Congress (Rosh ha-Keruim) which elected Israel's first king, Saul of the tribe of Benjamin. The proceedings of that body I have endeavored to delineate. Then followed a period of conflict between the house of Saul and the house of David and between various members of the Davidic house, in all of which the national Am exhibited a certain instability in the presence of tribal Ams which were still active, until finally Solomon succeeded in establishing a real union. At his death, however, this temporary unity was lost forever. The kingdom of Israel was, by secession, divided

into a Northern and a Southern Kingdom, the latter of which, the smaller, remained true to the house of David, while the former founded new royal families.

The Am ha-aretz persisted in both kingdoms till their overthrow, the former in the seventh, the latter in the sixth century, B.C. The data concerning the Southern Kingdom are fuller than those of the Northern. From them we conclude that originally the Am ha-aretz was composed of persons of note selected to represent the various districts, especially the cities of the land; that at first their opinions and habits inclined them to aristocracy; that there was a gradual growth of democratic opinion which powerfully influenced king, nobles and Am ha-aretz; that this resulted in the rise of a great popular party which was called Dallim (paupers), a nickname probably applied to them by their adversaries and then accepted as a title of honor; that the great leaders of this democratic party were the writing prophets; that the aristocratic or Tory party was called Elim (the great), and that these factions were divided on momentous public questions.

It would appear further that the upper house of twelve (or ten) Sarim mostly held with the Elim and were nearer to the throne than the Am ha-aretz. In political and in judicial matters, both houses sat and voted as one body, the order of procedure being that the Am ha-aretz met first, and when called to order, sent a message to

the Sarim that they were prepared for business, whereupon the latter left their Hall and joined the session, wherein a special place was assigned to them.

The Prophets whom we know (the writing Prophets) were the Tribunes of the people, and their function was to criticize all public and private wrongs. King, priests, prophets, nobles, the Am ha-aretz, the plutocracy, all came in for their censure. Though disliked by all these classes, they were feared; otherwise their amazing boldness of speech would have cost them their heads. And they could not have been greatly feared by the classes, if there had not been behind them a popular support which was formidable, and a public opinion of the masses which was controlling.

It is probable that in the early days the king himself presided over the joint meeting of the Am ha-aretz and the Sarim (or Nesiim; in the Northern Kingdom, Horim). Afterwards that duty appears to have devolved on the heir-apparent, and during some periods on the Chief Priest.

In delivering judgments the form was to render them in the name of the Sarim and the Zekenim.

For a long period the great question before the country was whether it was wiser to be friendly with Babylon or with Egypt. While true patriots were anxious to avoid all alliances, the problem could not be so solved or evaded.



Jeremiah, for instance, was for the Babylonian alliance, while the Court was all for Egypt. With the Court went the Elim, while the Dallim followed Jeremiah.

At the final catastrophe, the Babylonian victors were disposed to reorganize the government, though only on condition that the Royal House and its Egypt-loving followers should be eliminated. Hence there was no king named to succeed Zedekiah. The country was to have a more democratic administration under the viceroy Gedaliah, with a Dallim Parliament, presided over by Jeremiah. The plan miscarried, because the Royalist party was able to muster a large force of freebooting soldiers, who murdered Gedaliah and carried off Jeremiah to Egypt.

This hasty and scanty review suffices to show that some of our pet opinions need revision. Jeremiah and the other Prophets, when they addressed the Am ha-aretz, were speaking *for* the masses to the classes, and on behalf of the public they demanded an improvement in the conduct of the state and in the morality of the classes.

From this point of view it may be concluded, that the Jewish people at large had as keen an outlook and as wide a vision, in political as in religious affairs, and that while the modern monotheistic conception of the universe is largely the product of their genius, so the modern conception of a rational democratic representative government owes its origin to the same ances-

try. The remarkable phenomenon that the English people and their American descendants, the only nations that have really comprehended and utilized the principles of parliamentary government, took the Jews' Bible as their text-book in times of stress and storm, will thus be explained, and this explanation will make it clear that the Gerusia, the great Synagogue, and the Sanhedrin were not mushrooms that sprang up over night, but giant trees whose seed was planted centuries before in the minds and hearts of the people.

The question naturally arises as to the cause of the downfall of the Jewish state. If Israel was wise politically, why was it not successful? The parallel question is just as appropriate: If Israel was wise religiously, why did its established church fall?

The answer lies in the divergent estimates of what constitutes success. Egypt, Babylonia, Assyria, Rome, where are they? If the establishment and maintenance of a stately church and a prosperous state are the true measure, then Israel has failed both in religion and in politics. The colossal power of Rome destroyed the material prosperity of both institutions. If the establishment of principles is the true criterion of success, then Israel has triumphed gloriously. As regards its church—Christianity and Islam are both her children, and though they may, at times, have behaved unfilially, they have never wavered in carrying the banner of pure Theism, as against a corrupt and cor-

rupting heathenism. And so also with regard to the state. A puny country like Judea could not stand before Rome. If it were re-established now, it could not successfully resist the formidable armies and navies of any of the great empires of to-day. This only proves, however, that ten men can overcome one. But the political principles which our ancestors were working out, have become the common property of the civilized world, and tend daily to further expansion.

There is no historical record of any other nation which as early as a millennium before the present era had overcome the forces both of despotism and of unbridled democracy. Israel alone had, with prophetic instinct, anticipated the religious and the political development which was to come into its own after thousands of years. By a happy coincidence it gave to its representative body the very designation by which that of England has for a thousand years been known, for the Am ha-aretz of Palestine is in name the equivalent of that body so gloriously distinguished in English history—the Commons of the Land,—the house of Commons,—the Beth ha-Am.



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The Am Ha-Aretz, Ancient Hebrew

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